

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

FRANK A. WALLMULLER,

Plaintiff,

v.

SCOTT RUSSELL, DEBORAH  
WOOFFORD, and PATRICIA FLORES,

Defendants.

CASE NO. C14-5121 RBL-JRC

ORDER DENYING PLAINTIFF'S  
MOTION FOR APPOINTMENT OF  
COUNSEL

The District Court has referred this 42 U.S.C. § 1983 civil rights action to the undersigned Magistrate Judge pursuant to 28 U.S.C. §§ 636 (b)(1)(A) and (B), Fed. R. Civ. P. 72, and Local Magistrate Judge Rules MJR 1, MJR 3, and MJR 4.

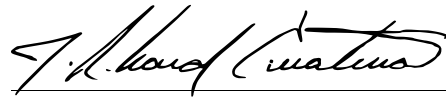
Plaintiff asks the Court to appoint counsel to represent him (Dkt. 28). Defendants oppose the motion (Dkt. 33). The Court denies the motion because plaintiff does not show any extraordinary circumstances warranting appointment of counsel and he has made no showing of a likelihood of success on the merits.

There is no right to have counsel appointed in cases brought pursuant to 42 U.S.C. § 1983. Although the Court can request counsel to represent a party, 28 U.S.C. § 1915(e)(1), the Court may

1 do so only in exceptional circumstances. *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir.  
2 1986); *Franklin v. Murphy*, 745 F.2d 1221, 1236 (9th Cir. 1984); *Aldabe v. Aldabe*, 616 F.2d 1089  
3 (9th Cir. 1980). A finding of exceptional circumstances requires the Court to evaluate both the  
4 likelihood of success on the merits and the ability of plaintiff to articulate his claims pro se in light of  
5 the complexity of the legal issues involved. *Wilborn*, 789 F.2d at 1331.

6 Plaintiff has articulated his claims. Plaintiff alleges that his First and Fourteenth Amendment  
7 rights have been violated because defendant Patricia Flores, a correctional officer, infringed plaintiff  
8 after plaintiff threatened to sue her. (Dkt. 1-1, pp.6-8). A motion to dismiss the action on the  
9 pleadings is pending (Dkt. 20). Plaintiff fails to show that appointment of counsel is warranted. The  
10 Court denies plaintiff's motion for appointment of counsel.

11 Dated this 21<sup>st</sup> day of May, 2014.

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13 J. Richard Creatura  
14 United States Magistrate Judge  
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